



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JUL 23 2010

OFFICE OF
CIVIL RIGHTS

Return Receipt Requested

Certified Mail #7009-2820-0002-1759-3807

In Reply Refer to:

EPA File No.13R-10-R5

Mr. Keith Harley
Attorney
Chicago Legal Clinic, Inc.
205 West Monroe Street, 4th Floor
Chicago, IL 60606

Re: Acceptance of Administrative Complaint

Dear Mr. Harley:

This letter is in response to the additional information you submitted for Complaint No. 03R-06-R5. The Office of Civil Rights (OCR) received this information on May 5, 2010. OCR has reviewed this information and determined that it constitutes a new allegation and thus will be identified as administrative Complaint No. 13R-10-R5. The complaint alleges that the Illinois Environmental Protection Agency (IEPA) violated Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. § 2000d *et seq.*, and EPA's nondiscrimination regulations found at 40 C.F.R. Part 7. After careful consideration, OCR is accepting your administrative complaint for investigation.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of the complaint to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if proven true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act.

Your complaint states that IEPA violated Title VI and EPA's nondiscrimination regulations by issuing a construction permit to Midwest Micronutrients in July 2009. Midwest Micronutrients is a zinc sulfate processing plant located at Geneva Energy. OCR received notice of this construction permit for the Midwest Micronutrients facility on September 11, 2009. Your complaint also states that IEPA issued a construction permit for the trial use of wood biomass fuels at the Geneva Energy facility on February 24, 2010. Lastly, your complaint states that IEPA's "failure to provide notice and an opportunity for public participation and comment presents a series of discretionary choices by the agency to avoid public knowledge and scrutiny of its permitting activity."

After careful review OCR is accepting the following allegation for investigation:

IEPA intentionally discriminated against the African American residents of Ford Heights, Illinois, by not providing an opportunity for meaningful involvement in the decision making process when IEPA issued construction permits for the Midwest Micronutrients processing facility and for the trial use of wood biomass fuel at the Geneva Energy facility.

This allegation is accepted for investigation because it meets EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint states an alleged discriminatory act that may violate Title VI. Third, the complaint was filed within 180 days of the date of the alleged discriminatory act. Finally, IEPA is a recipient of EPA financial assistance.

EPA's nondiscrimination regulations provide that OCR must attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR may discuss offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders.

If you have any questions, please contact Brittany Martinez of the OCR External Compliance Program, by telephone at (202) 343-9678, by e-mail at martinez.brittany@epa.gov, or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Ave. NW, Washington, D.C. 20460.

Sincerely,

A handwritten signature in black ink that reads "Rafael DeLeon". The signature is written in a cursive, flowing style.

Rafael DeLeon
Acting Director

cc: Douglas P. Scott, Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East
PO Box 19276
Springfield, IL 62794-9276

Lee Spearman, EEO Officer
Region 5

Stephen G. Pressman, Associate General Counsel
Civil Rights and Finance Law Office (MC 2311)